ATTACHMENT A
Remarks

Examiner's Note

The comments regarding the means-plus-function language in claim 42 are acknowledged with traverse. However, since the rejection of claim 42 is addressed in due course below, further remarks on this issue are not believed to be necessary at this time.

Claim Objections

Claims 5, 8 – 10, 12, 35, 37 and 46 have been objected to for reciting the phrases "adapted to" or "configured to" in the body of the claim.

Claims 5, 8 – 10, 12, 35, and 37 have been amended to more positively recite the functions in question. Claim 46 has been canceled for the reasons discussed below.

Claim Rejections – 35 U.S.C. 102

Claims 1, 2, 4, 7, 8,10, 11, 15 – 17, 19, 20, 22 – 24, 26 – 30, 33, 35 – 37, 41, 46, 50, and 52 have been rejected under 35 U.S.C. 102(e) as being anticipated by Matyas Jr. et al. (U.S. Patent No. 7,051,211) ("Matyas"). This rejection is respectfully traversed, although claims 1 and 35 have been amended to more even clearly distinguish the claimed subject matter from Matyas, and claims 46, 50 and 52 have been canceled without prejudice.

Claim 1 recites a method for downloading up-to-date versions of selected software from a plurality of software vendors over a network, and for installing the software to a hardware unit. The network comprises a first software handling machine configured to execute a download manager and a second software handling machine configures to execute a download supervisor. The method includes, *inter alia*, the following steps:

A) associating, by the download manager, a transaction identifier with selection data indicating the selected software for which up-to-date versions are to be downloaded; and,

remarks (10/826,718)

B) responsive to determining by the download supervisor that the requested download transaction is authorized:

1) assembling a download/installation instruction comprising access information for the selected software, and

2) performing, by the download manager, a download and installation of the up-to-date versions of the selected software to the hardware unit pursuant to the download/installation instruction.

It is alleged in the Office Action that Matyas teaches step A (as referenced above), citing " ... at least col. 9:38-53 *'The target data processing system 106 and/or 106' also starts the execution of the unencrypted portion of the software located in the code ... The unencrypted portion of the software accepts the information provided by the user and requests authorization to install the software by sending the information, along with the product ID value to the software installation server 102".'"

It is also alleged in the Office Action that Matyas teaches: step B1 (as referenced above), citing "... at least col. 10:20-22 *'Upon sending A, the software installation server 102 may assign a new value, A_new, in the software installation repository 100 to correspond to the (ID, S) pair")*; and step B2 (as referenced above), citing "... at least col. 10:37-43 *"The decrypted software P may be installed on the target data processing system 106 and/or 106' by the unencrypted portion of the software. Software P will be re-encrypted with the new key K_new-Hash (S,K) and stored on a writable storage media at the target data processing system 106 and/or 106'."'"

Matyas discloses software providing controlled access by dividing the software into an encrypted portion and an unencrypted portion (see: Abstract). An installation server has access to first and second secret values associated with the software. The unencrypted portion also incorporates the first secret value and acts as an installation client that receives the second secret value from the installation server, generates a key to decrypt the encrypted portion, and installs the software (col. 4, lines 11 – 25).

With respect to step A, it is respectfully submitted that disclosure in Matyas of sending "user information" and a product ID value to a software installation server is not a teaching of associating a transaction identifier with selection data indicating selected software for which up-to-date versions are to be downloaded. Assuming that the

remarks (10/826,718)

"product ID value" is being read as a "transaction identifier," it is clear that "user information" cannot be equated to "selection data indicating selected software for which up-to-date versions are to be downloaded" because Matyas does not teach or suggest downloading up-to-date versions of selected software.

Further, with respect to steps B1 and B2, it is respectfully submitted that the disclosure in Matyas of "using a second secret value received from an installation server to generate a key for decrypting an encrypted software portion, and then installing the software" is not a teaching or suggestion of downloading and installing up-to-date versions of selected software because: a) downloading a "secret value" does not equate to downloading up-to-date versions of selected software; and b) "decrypting an encrypted software portion, and then installing the decrypted software" merely results in the installation of the software that was originally saved to the target data processing system without regard to any up-to-date version of the software that might exist.

Claims 2, 4, 7, 8, 10, 11, 15 – 17, 19, 20, 22 – 24, 26 – 30 and 33 depend from claim 1 and are allowable for at least the reasons provided in support of the allowability of claim 1.

Claim 35 recites a system for downloading software to a hardware unit from a plurality of vendors over a network. The system includes, *inter alia*, a plurality of software vendor download servers in the network for providing up-to-date versions of software from a plurality of software vendors, a first software handling machine executing a download manager, and a second software handling machine executing a download supervisor, wherein the first software handling machine linked to the hardware unit by an external bus, and wherein the download manager executes upon detecting that the hardware unit is linked to the first software handling machine by said external bus.

It is alleged in the Office Action that Matyas teaches "a plurality of software vendor download servers for downloading software from the plurality of software vendors (see at least col. 9:26-29 *'The software installation server 102, operated on behalf of the software provider, may access the software installation repository 100 and, thereby, may possess knowledge of every unit of software that was generated (and possibly sold)').*"

remarks (10/826,718)

It is respectfully submitted that the disclosure in Matyas of "a server having access to a software installation repository" is not a teaching of "a plurality of software vendor download servers for providing up-to-date versions of software," as recited in claim 35, because the "repository" only contains information on "'secret values' associated with units of software" and not "up-to-date versions of software for downloading.

It is further alleged in the Office Action that Matyas teaches "wherein the first software handling machine linked to the hardware unit by an external bus, and wherein the download manager executes upon detecting that the hardware unit is linked to the first software handling machine by said external bus (see at least FIG. 3; see also col. 12:7-8 'The processor 238 communicates with the memory 236 via an address/data bus 248')."

However, it is respectfully submitted that neither FIG. 3 (which is a block diagram of a data processing system) nor the disclosure of "a processor communicating with a memory via an address/data bus" is a teaching or a suggestion of the features of an external bus, and a download manager which executes upon detecting that a hardware unit is linked to a software handing machine by the external bus.

Claims 36, 37 and 41 depend from claim 35 and are allowable for at least the reasons provided in support of the allowability of claim 35.

Claim Rejections – 35 U.S.C. 103

Claims 3, 5, 6, 9, 39, 42 – 45, 47 and 48 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of DaCosta et al. (U.S. Patent Application Publication No. 2002/0120725) ("DaCosta"). This rejection is respectfully traversed.

Initially, it is noted, as discussed above, that Matyas is concerned with controlling access to software, and does not teach or suggest downloading up-to-date versions of selected software. Thus, it is respectfully submitted that one of ordinary skill in the art would not have looked to Matyas for guidance for methods, systems and devices for downloading and installing up-to-date versions of selected software, and certainly would not have looked to combining Matyas with other references with respect to such subject

remarks (10/826,718)

matter. Thus, it is respectfully submitted that Matyas is not properly combinable with DeCosta.

Further, even if the combination of Matyas with DeCosta were proper, claims 3, 5, 6 and 9 depend from claim 1, and claim 39 depends from claim 35, and it is respectfully submitted that DeCosta does not overcome the above-discussed deficiencies of Matyas as a reference against claims 1 and 35. Therefore, claims 3, 5, 6, 9 and 39 are allowable for at least the reasons provided above in support of the allowability of claims 1 and 35.

Claim 42 recites hardware unit configured to execute a download manager capable of downloading and installing up-to-date versions of selected software from a plurality of software vendor download servers in a network. The hardware unit includes, *inter alia*, means to provide a transaction identifier and software selection data indicating the selected software for which up-to-date versions are to be downloaded to a download supervisor, and means to perform the download and installation of the up-to-date versions of the selected software to the hardware unit according to a download/installation instruction.

As discussed above with respect to claim 1, Matyas does not teach providing software selection data indicating selected software for which up-to-date versions are to be downloaded, or performing a download and installation of up-to-date versions of selected software to a hardware unit pursuant to download/installation instruction. Further, DeCosta does not overcome the deficiencies of Matyas as a reference against claim 1.

Claims 43 – 45 depend from claim 42 and are allowable for at least the reasons provided in support of the allowability of claim 42.

Claims 12 – 14, 21 and 53 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of Gulliver et al. (U.S. Patent Application Publication No. 2004/0054597) ("Gulliver"). This rejection is respectfully traversed.

For the reasons discussed above with respect to DaCosta, it is respectfully submitted that Matyas is not properly combinable with Gulliver.

Further, even if the combination of Matyas with Gulliver was proper, claims 12 – 14 and 21 depend from claim 1, and claim 53 depends from claim 35. It is respectfully

remarks (10/826,718)

submitted that Gulliver does not overcome the above-discussed deficiencies of Matyas as a reference against claims 1 and 35. Therefore, claims 12 – 14, 21 and 53 are allowable for at least the reasons provided in support of the allowability of claims 1 and 35.

Claims 25, 33, 40 and 51 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas and Official Notice. This rejection is respectfully traversed.

Official Notice is taken that using Desktop Management Interface is well known in the art at the time the invention was made. It is alleged in the Office Action that "[o]ne would have been motivated to use Desktop Management Interface to provide information about the BIOS and the computer system to the user in a standardized way."

As discussed above, Matyas is concerned with controlling access to software, and does not teach or suggest downloading up-to-date versions of selected software. Thus, it is respectfully submitted that one of ordinary skill in the art would not have looked to Matyas for guidance for methods and systems for downloading and installing up-to-date versions of selected software, and, would not have been motivated to use a Desktop Management Interface in combination with Matyas in the manner suggested.

Further, even if the combination of Matyas with Official Notice was proper, claims 25 and 33 depend from claim 1, and claim 40 depends from claim 35. It is respectfully submitted that the Official Notice regarding the Desktop Management Interface does not overcome the deficiencies of Matyas as a reference against claims 1 and 35, as discussed above. Therefore, claims 25, 33 and 40 are allowable for at least the reasons provided in support of the allowability of claims 1 and 35.

Claims 31 and 32 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Matyas in view of Kato et al. (U.S. Patent No. 6,471,496) ("Kato"). This rejection is respectfully traversed.

For the reasons discussed above with respect to DaCosta and Gulliver, it is respectfully submitted that Matyas is not properly combinable with Kato.

Further, even if the combination of Matyas with Kato was proper, claims 31 and 32 depend from claim 1. It is respectfully submitted that Kato does not overcome the deficiencies of Matyas as a reference against claim 1, as discussed above. Therefore,

- 6 -

claims 31 and 32 are allowable for at least the reasons provided in support of the allowability of claim 1.

END REMARKS

remarks (10/826,718)